

09/894,331

MS180586.01/MSFTP298US

REMARKS

Claims 1-5, 8-12, 16-20, 22-24, 26 and 27 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

**I. Rejection of Claims 1-5, 8, 10-12, 16-20, 22-24, 26 and 27 Under 35 U.S.C. §102(e)**

Claims 1-5, 8, 10-12, 16-20, 22-24, 26 and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Cseri *et al.* (US 2003/0046317). This rejection should be withdrawn for at least the following reasons. Cseri *et al.* does not disclose or suggest each and every aspect set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim.* *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim.* *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The invention as claimed relates to a configurable, object oriented pull model XML parser that exposes an interface that facilitates abstracting input sources. In particular, independent claim 1 recites: *a reader that selectively pulls the XML item from the XML stream.* Similarly, independent claims 16 and 27 recite: *selectively pulling an XML item based, at least in part, on the parse request.* Cseri *et al.* does not disclose or suggest such novel aspects of applicants' claimed invention.

Cseri *et al.* discloses a technique for incorporating binary formats into a tag based description language, such as XML, wherein the binary formatting is achieved by tokenizing the tag and attribute names into variable sized numeric tokens, thus obviating the need for repetitive or redundant storage of lengthy Unicode words. Such binary formatting, according to the cited document, minimizes parsing time and the generation of overhead incident to the formatting and parsing of data.

09/894,331

MS180586.01/MSFTP298US

The Examiner contends that Cseri *et al.*, at paragraphs [0004]-[0006] and paragraphs [0027]-[0029], provides for the selective pulling of an XML item from an XML stream. Applicants' representative disagrees. Paragraphs [0004]-[0006] enumerate the current problems associated with parsing XML documents such as unnecessary overhead and time delays associated with parsing text XML documents. Paragraphs [0004]-[0006] further expound the benefits of utilizing binary formatted XML data that effectively pre-tokenizes XML documents/data, thus reducing parsing time for those applications and/or programs that are to receive XML documents/data. Paragraphs [0027]-[0029] list a few of the hundreds of formally established XML applications provided by one or more standards bodies, such as W3C, OASIS and the Object Management Group, as well as other generic supporting technologies that have been layered on top of XML and that are used across a wide range of XML applications, for example, DOM (Document Object Model). The cited document however, does not disclose or suggest with particularity selectively pulling an XML item from an XML stream as recited in the subject claims.

The Examiner in the Response to Arguments section of the current Final Office Action asserts that Cseri *et al.* specifically discusses several APIs for XML, such as SAX and DOM, which work in conjunction with XML parsers. The Examiner further contends that it is well known to persons of ordinary skill in the art that DOM consists of interfaces for different XML elements, such as Node, Document, Element, Attr, NamedNodeMap, *etc.*, and that these interfaces include set and get methods for those different elements, which enable applications to selectively "pull" XML items from an XML stream. While applicants' representative agrees with the Examiner to the extent that DOM consists of interfaces for different XML elements, and that these interfaces include set and get methods for different elements, applicants' representative nevertheless disagrees with the Examiner's characterization of the cited document as disclosing or suggesting utilization of DOM to effectuate selectively pulling an XML item from an XML stream. It is submitted that the cited document merely makes mention of DOM in passing; nowhere in Cseri *et al.* is DOM utilized to effectuate selectively pulling XML items from an XML stream. In addition, while DOM consists of a multitude of methods, and in particular a plurality of set and get methods, it is submitted that it would be implausible for one of ordinary skill in the art upon reading Cseri *et al.* to discern which of the plurality of methods specified within DOM the cited document makes reference to in order to effectuate selectively pulling

09/894,331

MS180586.01/MSFTP298US

XML items from an XML stream. Thus, it is submitted that merely making a cursory reference to DOM without more is not an indication that would lead one of ordinary skill in the art to the conclusion that Cseri *et al.* provides for a reader that selectively pulls an XML item from an XML stream.

Moreover, the Federal Circuit has held that inherency (suggestion) may not be established by probabilities or possibilities. *The mere fact that a certain thing may result from a given set of circumstances is not sufficient.* See, *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) (emphasis added)). Thus, the fact that Cseri *et al.* only mentions DOM in passing, never specifically utilizing the suite of methods encapsulated therein, leads one to believe that the cited document does not inherently provide for the novel aspects recited in the subject claims.

In addition, the Examiner is reminded that the standard by which anticipation is to be measured is *strict identity* between the cited document and the invention as claimed, not mere equivalence or similarity. See, *Richardson* at 9 USPQ2d 1913, 1920. This means that in order to establish anticipation under 35 U.S.C. §102, the single document cited must not only expressly or inherently describe each and every limitation set forth in the patent claim, but also the identical invention must be shown in as complete detail as is contained in the claim. As stated *supra*, it is believed that Cseri *et al.* fails to provide a reader that selectively pulls an XML item from an XML stream, necessitates the conclusion that the cited document in the final analysis does not provide an invention identical to that recited in the subject claims.

In view of at least the foregoing, it is requested that the rejection with respect to claims 1, 16 and 27 (and claims that depend there from) should be withdrawn.

## II. Rejection of Claim 9 Under 35 U.S.C. §103(a)

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Cseri *et al.* in view of Houben *et al.* (US 2002/0147745). Withdrawal of this rejection is requested for at least the following reasons. Claim 9 depends from independent claim 1, and Houben *et al.* fails to cure the aforementioned deficiencies of Cseri *et al.* with respect to independent claim 1, and in addition, Cseri *et al.* is not a citable reference with respect to the subject application. The following is a quotation of 35 U.S.C. §103(c), which forms at least one basis for withdrawal of all rejections in this Office Action:

09/894,331

MS180586.01/MSFTP298US

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

It is respectfully submitted that Cseri *et al.* qualifies as art under 35 U.S.C. §102(e), and the subject matter of Cseri *et al.* and the claimed invention were under an obligation of assignment to Microsoft Corporation at the time the invention was made. Therefore, in accordance with 35 U.S.C. §103(c), Cseri *et al.* is not a citable reference with respect to the subject application. Accordingly, this rejection should be withdrawn.

09/894,331

MS180586.01/MSFTP298US

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP298US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



Jeffrey R. Sadlowski

Reg. No. 47,914

AMIN & TUROCY, LLP  
24<sup>TH</sup> Floor, National City Center  
1900 E. 9<sup>TH</sup> Street  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731